

The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper 28

By: Trial Section Merits Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed: April 4, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MICHEL MONOD, AGNES DOUMAS, MICHAEL AFFOLTER
and PETER VAN DEN BROEK

Junior Party,
U.S. Patent 6,309,868

v.

ALEXANDER BLINKOVSKY, KIMBERLY BROWN,
MICHAEL W. REY, ALAN KLOTZ,
and TONY BYUN

Senior Party
Application 09/079,592

Patent Interference No. 104,838 (CAS)

Before: SCHAFER, TORCZON and SPIEGEL, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

Upon consideration of Monod's REQUEST FOR ADVERSE JUDGMENT
UNDER 37 C.F.R. § 1.662 (PAPER 27), it is

ORDERED that judgment on priority as to Counts 1 and 2 (Paper 1, page 5) is awarded against junior party MICHEL MONOD, AGNES DOUMAS, MICHAEL AFFOLTER and PETER VAN DEN BROEK;

FURTHER ORDERED that junior party MICHEL MONOD, AGNES DOUMAS, MICHAEL AFFOLTER and PETER VAN DEN BROEK is not entitled to a patent containing claims 1-4 (corresponding to Count 1) and 5-17 and 19 (corresponding to Count 2) of U.S. Patent 6,309,868, issued October 30, 2001, based on U.S. application 09/462,284, filed March 24, 2000, as the national stage entry of PCT/EP98/02799, filed May 6, 1998, which claimed foreign priority to EP application 97111377, filed July 5, 1997;

FURTHER ORDERED that a copy of this paper shall be made of record in the files of U.S. Patent 6,309,868 and of U.S. application 09/079,592; and,

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

_____)	
RICHARD E. SCHAFER)	
Administrative Patent Judge)	
)	
)	
)	
)	
_____)	BOARD OF PATENT
RICHARD TORCZON)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
)	
)	
_____)	
CAROL A. SPIEGEL)	
Administrative Patent Judge)	

104,838

cc: via fax and first class mail

Monod (real party in interest:
NESTEC LTD):

Allan A. Fanucci, Esq.
Rodney J. Fuller, Esq.
WINSTON & STRAWN
200 Park Avenue
New York, New York 10166-4193
Tel: 212-294-3311 (Fanucci)
212-294-3316 (Fuller)
Fax: 212-294-4700
E-mail: afanucci@winston.com
rjfuller@winston.com

Blinkovsky (real party in interest:
NOVOZYMES BIOTECH, INC.):

Steven W. Parmelee, Esq.
Edward J. Keeling, Esq.
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111
Tel: 206-467-9600
Fax: 415-576-0300
E-mail: swparmelee@townsend.com